

# THE SPOKESMAN-REVIEW

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## Editorial: Revisit pay structure for public defense work

The Spokesman-Review

The Office of Public Defense was created in 1996 by state law to “implement the constitutional guarantee of counsel” and “ensure the effective and efficient delivery of the indigent appellate services funded by the state of Washington.”

A 2008 review found that the office is doing quite well in carrying out the intent of the law.

For instance, state appeals court judges have been surveyed to measure the effectiveness of these public defenders, and the scores reflect well on the office. In 1995, only 35 percent of judges said the attorneys were “very effective.” But since 2005, that score has risen to 91 percent, according to the Joint Legislative Audit and Review Committee report.

However, some tweaking might be in order, because the system for selecting and paying attorneys has been called into question by Spokane attorneys who criticize what they call the OPD’s two-tiered system.

On one tier are two Seattle law firms that are paid \$9,500 plus regular legal fees to represent clients around the state who can’t afford an attorney. On a lower tier are the rest of the public defenders in the state who typically get \$2,300 per case.

First it should be noted that nobody is getting rich defending low-income clients through this system. Washington state has historically been stingy when it comes to paying attorneys who take on public defense work. With the state’s grim budget picture, this won’t change soon. In the meantime, the system will depend on public-service-oriented lawyers to fulfill the constitutional requirement that poor people receive legal assistance.

On the one hand, we should be grateful these Seattle firms are taking on this work around the state. On the other, we have to wonder whether the state is missing an opportunity to employ more non-Seattle attorneys. We can understand taking higher rent and office costs into consideration when determining how much to pay these Seattle firms. But when Spokane attorneys are holding down costs by turning their basements into offices, that should be considered, too.

In addition, the state pays the travel costs of Seattle attorneys who take cases across the state, but such expenses are not offered to other attorneys. Before doing that, the Office of Public Defense ought to see whether a nearby attorney is available.

State Appeals Court Judge Kevin Korsmo, who used to take on indigent appeals, told The Spokesman-Review, "It's one thing if you can't find qualified people over here (in Spokane). But I'm not convinced that's the case."

We appreciate the advances in indigent defense since the formation of the Office of Public Defense, but the system of assigning cases and paying for attorneys ought to be reviewed.

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